

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Part 570**

[Docket No. FR-4872-F-02]

RIN 2506-AC15

Modification of the Community Development Block Grant Definition for Metropolitan City and Other Conforming Amendments

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: This rule makes final the Community Development Block Grant (CDBG) program regulations that replaced the obsolete term “central city” with a new term “principal city” in the definition of “metropolitan city” and other CDBG regulations referencing “central city.” The revisions were necessary because of the recent changes to the Office of Management and Budget’s (OMB) Standards for Defining Metropolitan and Micropolitan Statistical Areas (MSAs) and the announcement in 2003 of new definitions for those areas using Census 2000 data. The rule also updated the affected CDBG program regulations so that the terminology used by HUD is consistent with OMB standards and the purposes of the Housing and Community Development Act of 1974. This rule follows an interim rule that was published in the **Federal Register** December 12, 2003. One comment was received in response to the interim rule. After careful consideration of the comment received in response to the interim rule, this rule makes final without change the interim rule published on December 12, 2003.

DATES: *Effective Date:* January 6, 2005.

FOR FURTHER INFORMATION CONTACT: Sue Miller, Director, Entitlement Communities Division, Office of Block Grant Assistance, Office of Community Planning and Development, Room 7282, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-7000; telephone (202) 708-1577 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number listed in this section through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:**I. Statutory Background**

Title I of the Housing and Community Development Act of 1974 (42 U.S.C.

5301-5320) (the Act) establishes the statutory framework for the CDBG program. HUD’s regulations implementing the CDBG program are located at 24 CFR part 570 (entitled “Community Development Block Grants”).

Section 102(a)(4) of the Act defines the term “metropolitan city” as “(A) a city within a metropolitan area which is the central city of such area, as defined and used by the Office of Management and Budget, or (B) any other city, within a metropolitan area, which has a population of fifty thousand or more. * * *” The term “metropolitan area” is defined in section 102(a)(3) of the Act as “a standard metropolitan statistical area as established by the Office of Management and Budget.” Section 102(b) of the Act provides that the Secretary may, by regulation, change or otherwise modify the meaning of the terms defined in section 102(a) in order to reflect any technical change or modification made by the United States Bureau of the Census or OMB.

II. Regulatory Background

On December 12, 2003, HUD published an interim rule (68 FR 69580) replacing the now-obsolete term “central city” with the term “principal city.” The interim rule amended the definition of “metropolitan city” in 24 CFR 570.3; updates 24 CFR 570.4, which relates to the allocation of funds and the recognition of boundaries of entitlement areas, and 24 CFR 570.307(e), which deals with the ineligibility of included units of general local government (that is, those units of local government that are included as part of an urban county). This change was based on definitions and standards published by OMB. For further information on the background and significance of these changes, please see the preamble to the December 12, 2003 rule (68 FR 69580 *et seq.*).

III. This Final Rule

This rule received one public comment from a small city. This commenter supported this rule.

This rule therefore makes final the December 12, 2003, interim rule without change.

IV. Findings and Certifications*Executive Order 12866, Regulatory Planning and Review*

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review*. OMB determined that this rule is a “significant regulatory action” (but not economically

significant) as defined in section 3(f) of the order. Any changes made in this rule subsequent to its submission to OMB are identified in the docket file. The docket file is available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC.

Environmental Impact

This rule simply revises existing HUD regulations by replacing “central city” or “central cities” with “principal city” or “principal cities,” where applicable, in order to be consistent with OMB standards. This rule does not direct, provide for assistance or loan or mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition or new construction, nor does it establish, revise, or provide for standards for construction, construction materials, manufactured housing, or occupancy. This rule revises an existing document where the existing document as a whole would not fall under a categorical exclusion but the amendment by itself does so. Pursuant to 24 CFR 50.19(c)(1) and (c)(2), these revisions are categorically excluded from the environmental assessment required by the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

Impact on Small Entities

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

There are no anti-competitive discriminatory aspects of the rule with regard to small entities and there are not any unusual procedures that need to be complied with by small entities.

Therefore, the undersigned certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities, and an initial regulatory flexibility analysis is not required.

Executive Order 13132, Federalism

Executive Order 13132 (entitled “Federalism”) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts

state law, unless the agency meets the consultation and funding requirements of section 6 of the executive order. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the executive order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the

private sector. This final rule does not impose any federal mandate on any state, local, or tribal government or the private sector within the meaning of UMRA.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance (CFDA) program number is 14.218.

List of Subjects in 24 CFR Part 570

Administrative practice and procedure, Community development block grant, Grant programs—education, Grant programs, housing and community development, Indians,

insular areas, Lead poisoning, Loan programs—housing and community development, Low and moderate income housing, New communities, Pockets of poverty, Puerto Rico, Reporting and recordkeeping requirements, Small cities, Student aid.

■ Accordingly, for the reasons discussed in the preamble, HUD makes final the December 12, 2003 interim rule (68 FR 69582) without change.

Dated: November 30, 2004.

Nelson R. Bregón,

General Deputy Assistant Secretary.

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